

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

## SAN JOSE DIVISION

11 D.S. and M.S., Parents, on behalf of Student, ) Case No.: 12-CV-0850-LHK  
12 J.S., )  
13 Plaintiffs, ) ORDER EXTENDING TIME  
14 v. )  
15 SANTA CRUZ CITY SCHOOL DISTRICT; )  
16 SANTA CRUZ COUNTY OFFICE OF )  
17 EDUCATION; and SANTA CRUZ COUNTY )  
18 CHILDREN'S MENTAL HEALTH SERVICE, )  
Defendants. )

19 D.S. and M.S. ("the Plaintiffs") appeal the November 21, 2011 Order of Administrative  
20 Law Judge Deidre Johnson regarding the provision of free appropriate public education to the  
21 Plaintiffs' son J.S. *See* Dkt. No. 1. At the Initial Case Management Conference held on August 1,  
22 2012, the Court, in consultation with the parties, set the deadline to file a motion to amend the  
23 complaint or add parties on October 24, 2012, and the deadline to file the Plaintiffs' appeal brief on  
24 November 1, 2012. *See* Dkt. No. 23 (Minute Entry and Case Management Order).

25 On October 24, 2012, the Plaintiffs filed a four sentence long motion to amend the  
26 complaint by adding J.S. as a party because J.S. had turned 18 on October 21, 2012.<sup>1</sup> *See* Dkt. No.

27  
28 <sup>1</sup> The Plaintiffs did not properly notice their motion to amend the complaint. *See* Dkt. No. 28. The Plaintiffs also failed to contact the Courtroom Deputy to schedule a hearing date. The Court

1 28. The opposition is due November 7, 2012, and the reply is due November 14, 2012. *See id.*;  
2 Civil Local Rule 7-3. The Court scheduled a hearing for the earliest available date: January 24,  
3 2013, the same date as the hearing on the Plaintiffs' appeal. *See Dkt. No. 31.*

4 After the close of business on October 31, 2012, the day before the Plaintiffs appeal brief  
5 was due, the Plaintiffs filed an ex parte motion to extend time for filing the appeal brief. *See Dkt.*  
6 No. 30. Ex parte motions are not a proper method for requesting extensions of time. The  
7 Plaintiffs ex parte motion argues that the Court should extend the deadline to file the Plaintiffs'  
8 appeal brief until after the Court rules on the Plaintiffs' pending motion to amend because  
9 "amendment affects the content of the appeal brief and submitting the appeal brief prior to the  
10 ruling would cause great prejudice to the Plaintiff." *Id.*

11 On November 1, 2012, at 2:45 p.m., Plaintiffs' counsel emailed the Courtroom Deputy to  
12 ask whether the deadline to file the Plaintiffs' appeal brief was extended until after the January 24,  
13 2012 hearing on the Plaintiffs' motion to amend the complaint. The Plaintiffs apparently presumed  
14 that the deadline was extended because the Plaintiffs did not file their appeal brief on November 1,  
15 2012.

16 The Court will not extend the deadline for filing the Plaintiffs' appeal brief until after the  
17 Court has ruled on the Plaintiffs' motion to amend for two reasons. First, the Plaintiffs agreed to  
18 the Court's deadlines for filing a motion to amend and filing the Plaintiffs' appeal brief. *See Dkt.*  
19 No. 23. The Plaintiffs agreed to these deadlines despite having knowledge of J.S.'s age and  
20 impending birthday prior to the Initial Case Management Conference. *See Dkt. No. 1 at ¶ 14.*  
21 Second, extending the deadline to file the Plaintiffs' appeal brief until after the January 24, 2012  
22 hearing on the Plaintiffs' motion to amend would result in an unreasonable delay in the case  
23 schedule.

24 However, in light of the confusion of Plaintiffs' counsel, the Court will accept the  
25 Plaintiffs' appeal brief, provided that it is filed by Monday, November 5, 2012. The Plaintiffs'  
26  
27

28 instructs the Plaintiffs' counsel to review the Civil Local Rules and the undersigned judge's  
Standing Order before filing any further motions.

1 appeal brief may address the alternative possibilities that the Plaintiffs' motion to add J.S. as party  
2 is granted or denied.

3 The Plaintiffs' ex parte motion also argues that the Plaintiffs have not received a Bates-  
4 stamped copy of the administrative record to cite in their brief. *See* Dkt. No. 30. The Plaintiffs  
5 therefore request an extension of time until after the Defendants have provided a Bates-stamped  
6 copy of the administrative record. The Plaintiffs were participants in the administrative process  
7 and have the administrative record. Moreover, the Defendants lodged the administrative record  
8 with the Court on August 23, 2012, a week before the Court's deadline to do so. *See* Dkt. No. 25.  
9 As explained in the Defendants' notice of lodging, the administrative record consists of six  
10 transcripts, each consisting of consecutively numbered pages. *See id.* The parties may cite to the  
11 administrative record using this pagination system. Accordingly, there is no need for the  
12 Defendants to provide the Plaintiffs with a Bates-stamped copy of the administrative record.

13 In sum, the Court ORDERS the Plaintiffs to file their appeal brief by Monday, November 5,  
14 2012. The Court CONTINUES the deadline to file the Defendants' opposition brief to December  
15 19, 2012, and CONTINUES the deadline to file the Plaintiffs' reply brief to January 8, 2013. All  
16 other deadlines remain unchanged. The Court will not consider any further ex parte motions to  
17 extend time.

18 **IT IS SO ORDERED.**

19 Dated: November 2, 2012

  
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LUCY H. KOH  
United States District Judge